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November 13, 2006

Ms. Cecilia K. Tumulty  
City Clerk, City of Springfield  
Municipal Center West, Room 106  
300 South Seventh Street  
Springfield, IL 62701

Re: Southwest Springfield Neighbors  
Association, et al.

Dear Ms. Tumulty:

Enclosed for filing is Objectors' Response to Petition of Cobblestone Development Company and Wal-Mart Stores, Inc. to the City Council of the City of Springfield, Illinois, Appealing the Vote of the Regional Planning Commission on September 20, 2006.

Thank you.

Sincerely,

John M. Myers

JMM:dnc

Enclosures

cc: Mayor Timothy J. Davlin  
All Alderman

OBJECTORS' RESPONSE TO PETITION OF COBBLESTONE DEVELOPMENT COMPANY AND WAL-MART STORES, INC. TO THE CITY COUNCIL OF THE CITY OF SPRINGFIELD, ILLINOIS, APPEALING THE VOTE OF THE REGIONAL PLANNING COMMISSION ON SEPTEMBER 20, 2006

TO: THE HONORABLE MAYOR TIM DAVLIN  
THE HONORABLE FRANK EDWARDS, ALDERMAN  
THE HONORABLE FRANK MCNEIL, ALDERMAN  
THE HONORABLE FRANK KUNZ, ALDERMAN  
THE HONORABLE CHARLES REDPATH, ALDERMAN  
THE HONORABLE JOE BARTOLOMUCCI, ALDERMAN  
THE HONORABLE MARK MAHONEY, ALDERMAN  
THE HONORABLE JUDY YEAGER, ALDERMAN  
THE HONORABLE IRV SMITH, ALDERMAN  
THE HONORABLE THOMAS SELINGER, ALDERMAN  
THE HONORABLE BRUCE STROM, ALDERMAN

Objectors. SOUTHWEST SPRINGFIELD NEIGHBORS ASSOCIATION and ROGER KANERVA, KAREN REYNOLDS, SUE HINES, and DEB WOODS. ("Objectors"), hereby respond to the Petition of Wal-Mart Stores and Cobblestone Development Company appealing the decision of the Regional Planning Commission dated September 20, 2006 denying their Request for Variance and revised Preliminary Plan for Cobblestone Estate Subdivision, and state as follows:

1. Attached hereto as Exhibit A is the Objectors' formal objection to the requested variances and revised preliminary plan, which they filed with the Regional Planning Commission on September 1, 2006. Exhibit A details the deficiencies in Wal-Mart's submission to the Regional Planning Commission, and is incorporated herein by reference. Wal-Mart made no attempt whatsoever to remedy the defects by presenting any evidence to the Regional Planning Commission, preferring instead to rely on its counsel's rhetoric before the RPC. The Petition for Variance should have been, and likely was, denied on that basis alone.

2. Exhibit A also demonstrates the falsity of Wal-Mart's contention that the requirements of §153.201 of the Subdivision Ordinance were met here. Exhibit A shows that the intent of the Subdivision Ordinance is violated by the requested variances, starting with the requirement that there may be no direct access to arterial roads—and Wal-Mart seeks FOUR direct access points to arterial roads. The other substantial offsite impacts of this development are completely antithetical to the suitability requirements of the subdivision ordinance. Nor are there any extraordinary circumstances present here; this site is like any other undeveloped cornfield on the west side of Springfield. Hardship

to Wal-Mart is a contradiction in terms. Nor is there hardship to the developer, who made the decision some years ago to build Yucan Drive through the subdivision, thereby making a "big box" store impossible on the site. Now that many people in the subdivisions have bought homes in reliance on there never being a big box store on the site, the Developer has changed his mind. Wal-Mart's and the developer's motive for seeking the variance was in fact a crass desire to make money while destroying Objectors' neighborhood.

3. However, it is appropriate to comment on certain additional statements made by Wal-Mart in the present appeal, as follows.

First, Wal-Mart states that this matter is not about zoning. On some level this is true, but it is equally true that the requirements of the Zoning Ordinance simply cannot be ignored in a subdivision variance request. This is because the Subdivision Ordinance requires a suitability determination as to any subdivision, and the most fundamental questions in such a determination is whether the zoning is appropriate. Here, as demonstrated in the Exhibit A, the zoning was not appropriate, and the off-site impacts of this proposal are substantial and demonstrable.

Second, Wal-Mart raises the issue of alleged loss of tax revenues to District 186 if the requested subdivision variances are not allowed. This contention, even if it had any basis in fact, would have absolutely nothing to do with subdivision issues. But it has no basis in fact, and is just empty rhetoric. The notion that District 186 is going to lose tax revenues is thoroughly rebutted in a memorandum analyzing the issue, which we attach hereto as Exhibit B.

Third, this appeal is replete with unsworn allegations and assertions of evidentiary matters that were never presented to the Regional Planning Commission and were therefore waived. For example, Wal-Mart contends that Cobblestone Development Company "has entered into a binding contract with Wal-Mart." This alleged binding contract has *never* been put into evidence. Similarly, Wal-Mart claims that if it does not purchase the property, Cobblestone Development Company "will sustain significant damages that cannot be recouped from other purchasers." This assertion was neither proved to the Regional Planning Commission, nor is it supported by any facts, let alone sworn facts, whatsoever. Nor does it even make sense. Cobblestone's reckless decision to give Wal-Mart an option, thereby taking this property off the market for the last three years while the commercial real estate market cooled in Springfield, is the real cause of its damages, if any.

4. Wal-Mart complains that the Regional Planning Commission has not specified the grounds for its disapproval of the variance. That is hardly grounds for reversal of the RPC decision. All this means is that Wal-Mart is now free to argue

whatever its wants to the City Council—which it has done in the instant Petition for Appeal.

5. Wal-Mart claims that its Preliminary Plan to complies with the City’s subdivision regulations. The claim is obviously false. If the Plan complies with the regulations, there is no need for a variance.

6. Wal-Mart asserts that the purpose of the variation is to save the City \$4 million in public fund expenditures for road improvements. This startling assertion is ignores the fact if Wal-Mart were not proposing to relocate to such a completely unsatisfactory location. the road improvements and the \$4 million expenditure would be completely unnecessary.

7. Wal-Mart states that the Land Subdivision Committee recommended approval of the plan and variances. This is true—but it is also true that for some unexplained reason, Objectors’ written objections, Exhibit A hereto, were never distributed to the Land Subdivision Committee by Executive Director Poludniak, even though they were submitted well in advance of the meeting. In accordance with its usual procedures, members of the Committee came to the meeting with staff recommendations in hand, as shown by a straw vote before Objectors were allowed to state their case.

For the foregoing reasons, the City Council should sustain the denial by the Regional Planning Commission of these requested variances.

Respectfully submitted,

SOUTHWEST SPRINGFIELD NEIGHBORS  
ASSOCIATION, ROGER KANERVA,  
KAREN REYNOLDS, SUE HINES, and DEB  
WOODS, Objectors,

By: \_\_\_\_\_

\_\_\_\_\_  
Their Attorney

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